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**OFFICE OF PETITIONS**

In re Application of :  
Kevin M. Gamble et al. :  
Application No. 10/423,328 :  
Filed: April 25, 2003 :  
Attorney Docket No. K-1823P :  
:

**ON PETITION**

This is a decision on the petition, filed June 15, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the final Office Action mailed July 21, 2004. A response was filed November 19, 2004 with a one month extension of time request. By Advisory Action of January 24, 2005, petitioner was advised that the response did not place the application in condition for allowance. This application became abandoned on October 22, 2004. Accordingly, a Notice of Abandonment was mailed June 8, 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was

unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of July 21, 2004, within the time period for response. No response has been submitted with the petition to revive.

The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application.

Petitioner must submit a proper reply to the final Office action mailed on July 21, 2004, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

By FAX: (571) 273-8300  
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned  
Petitions Attorney at (571) 272-3212



Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,657	12/14/2001	Marc C. Albertsen	1148D	5787
7590	11/03/2005		EXAMINER	
Patricia A. Sweeney 1835 Pleasant St. West Des Moines, IA 50265-2334				KUBELIK, ANNE R
		ART UNIT	PAPER NUMBER	
		1638		

DATE MAILED: 11/03/2005

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.